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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

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GARY PIERCE, Chairman 2012 FEB 22 PM 1 02

BOB STUMP

FEB 22 2012

SANDRA D. KENNEDY

PAUL NEWMAN

BRENDA BURNS

DOCKETED BY

In the matter of:

DOCKET NO. S-20790A-11-0104

DAVID SHOREY AND MARY JANE  
SHOREY, husband and wife,

SECURITIES DIVISION'S RESPONSE TO  
RESPONDENTS' MOTION TO ADMIT RS-11

WESTCAP ENERGY INC., an Arizona  
corporation, d/b/a Westcap Solar,

Respondents.

The Arizona Corporation Commission, Securities Division (the "Division") responds and objects to the Respondent's motion to admit RS-11 (the "exhibit") into evidence, for the following reasons. First, the Respondents fail to establish any foundation for the exhibit. Since the exhibit is being introduced after a final evidentiary hearing was already conducted, there are no witnesses or testimony to lay the required foundation for the exhibit. As the Division stated to the Respondents' counsel in a separate communication, a notarized affidavit executed by the person who gathered these documents should be included, which should include but not be limited to, the details of how the documents were obtained and generated, that the documents are true and accurate copies of the originals, and that each signature is a true and accurate copy obtained from the signing investor. This request is required since the Division has no ability to cross-examine the party introducing the exhibit. In fact, the Division has to guess who even compiled the documents. Finally, Respondents fail to cite in their motion, the rule or statute that allows for the admission of the late exhibit and why the exhibit is relevant to the proceeding. The Division and the Administrative Law Judge should not be required to assume the relevancy of the exhibit. A confirmation that each document

1 was submitted by Respondents by mail, email, and/or fax, and received by Respondents in response  
2 to the WEI preferred stock offering, would be sufficient for the Division.

3 Since the exhibit lacks the proper foundation and a proper explanation of its relevancy, the  
4 Division requests that the Respondents' motion to admit RS-11 be denied. Should the Respondents  
5 renew their motion, they should be required to file a notarized affidavit addressing the  
6 Administrative Law Judge's and the Division's concerns above and based on the contents of the  
7 affidavit and renewed motion, the Division can then respond accordingly, as needed.

8 RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of February, 2012.

9  
10 By: 

11 Phong (Paul) Huynh  
12 Attorney for the Securities Division of the  
13 Arizona Corporation Commission

14 ORIGINAL AND THIRTEEN (13) COPIES of the foregoing  
15 filed this 22<sup>nd</sup> day of February, 2012, with

16 Docket Control  
17 Arizona Corporation Commission  
18 1200 West Washington  
19 Phoenix, AZ 85007

20 COPY of the foregoing hand-delivered this  
21 22<sup>nd</sup> day of February, 2012, to:

22 ALJ Marc Stern  
23 Arizona Corporation Commission/Hearing Division  
24 1200 West Washington  
25 Phoenix, AZ 85007

26 COPY of the foregoing mailed  
this 22<sup>nd</sup> day of February, 2012, to:

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By: Paul Huynh